

MAR 05 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KENNETH SKUNKCAP, aka Kenneth
Buffalo,

Defendant - Appellant.

No. 08-30175

D.C. No. 4:06-cr-00016-SEH

MEMORANDUM *

Appeal from the United States District Court
for the District of Montana
Sam E. Haddon, District Judge, Presiding

Submitted February 18, 2009 **

Before: BEEZER, FERNANDEZ, and W. FLETCHER, Circuit Judges.

Kenneth Skunkcap appeals from the nine-month sentence imposed following

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

revocation of supervised release. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Skunkcap contends that the district court erred by failing to address his counsel's argument regarding the need for rehabilitation, failing to consider his personal circumstances including his mental disability, and failing to discuss the relevant factors set forth by 18 U.S.C. § 3553(a). These contentions are belied by the record, and we conclude that the district court committed no procedural error. *See United States v. Carty*, 520 F.3d 984, 992-93 (9th Cir. 2008) (en banc).

Skunkcap further contends that his sentence is unreasonable because it is greater than necessary to deter him from criminal conduct, incapacitate him, and promote justice, and it does not take into account his specific rehabilitative needs or unique circumstances. In light of the totality of the circumstances and the factors set forth in 18 U.S.C. § 3553(a), we conclude that the sentence imposed by the district court is reasonable. *See Gall v. United States*, 128 S. Ct. 586, 597 (2007); *see also United States v. Simtob*, 485 F.3d 1058, 1062 (9th Cir. 2007).

AFFIRMED.